

Message Text

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FM SECSTATE WASHDC

TO AMEMBASSY BONN

INFO AMEMBASSY LONDON

AMEMBASSY THE HAGUE

AMEMBASSY TOKYO

AMEMBASSY MOSCOW

AMEMBASSY PARIS

DOD

CNO

COAST GUARD

NAVSHPSYSCOM CODE 08

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C O N F I D E N T I A L STATE 072788

E.O. 11652: GDS

TAGS: PFOR, PBOR, MCAP, TECH, ETRN, GW, JA, UK

SUBJECT: RATIFICATION OF 1962 BRUSSELS CONVENTION ON
NUCLEAR SHIP LIABILITY

1. DEPARTMENT HAS HAD SERIES OF INFORMAL CONSULTATIONS
WITH UK EMBASSY HERE WITH RESPECT TO THE PROBABLE INTENTION
OF THE FRG TO BRING INTO FORCE THE 1962 BRUSSELS CONVENTION
ON NUCLEAR SHIP LIABILITY. THIS CONVENTION, WHICH
ESTABLISHES OPERATOR'S ABSOLUTE (I.E. NO-FAULT) LIABILITY
UP TO LIMITED FINANCIAL CEILING FOR DAMAGES CAUSED BY A
NUCLEAR INCIDENT INVOLVING A NUCLEAR POWERED SHIP, WILL
ENTER INTO FORCE WHEN IT IS RATIFIED BY ONE STATE THAT
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LICENSES NUCLEAR SHIPS AND ONE OTHER STATE. PORTUGAL

(A NONOPERATOR) HAS RATIFIED, AND THE FRG IS EXPECTED TO RATIFY THIS YEAR IN ORDER TO FACILITATE THE ENTRANCE OF THE NS OTTO HAHN INTO FOREIGN PORTS. THE UNITED STATES HAS NOT SIGNED THE BRUSSELS CONVENTION, LARGELY BECAUSE THERE IS NO EXPLICIT EXEMPTION OF WARSHIPS FROM APPLICATION OF THE TREATY IN ITS ENTIRETY.

2. IN OUR DISCUSSIONS OF SUBJECT WITH UK EMBASSY, WE HAVE TAKEN THE VIEW THAT IT WOULD BE DESIRABLE TO BRING THE CONVENTION INTO FORCE WITH FULL US PARTICIPATION IF OUR VITAL INTERESTS REGARDING WARSHIPS CAN BE FULLY PROTECTED, BECAUSE THE LIKELY ALTERNATIVE MAY BE THE DEVELOPMENT OF INTERNATIONAL LAW ON THIS INCREASINGLY CRITICAL ISSUE WITHOUT US PARTICIPATION. UK GOVERNMENT TAKES PARALLEL VIEW. IN EARLY FEBRUARY IT WAS AGREED THAT UK SHOULD MAKE INFORMAL APPROACH TO FRG REPS IN BONN TO TAKE THEM INTO OUR CONFIDENCE AND INDICATE (A) THAT BOTH US AND UK WERE PREPARED TO WORK WITH FRG AND OTHER GOVERNMENTS TO BRING THE CONVENTION INTO FORCE, PROVIDED THAT IT CAN FIRST BE MODIFIED TO EXCLUDE WARSHIPS FROM ITS COVERAGE; AND (B) IN THE MEANTIME BOTH GOVERNMENTS HOPED FRG WOULD DELAY ANY MOVE TO RATIFY CONVENTION IN ITS PRESENT FORM.

3. UK MADE APPROACH IN EARLY MARCH TO DR. DELAS (FRG MINISTRY OF RESEARCH AND TECHNOLOGY). DELAS WAS NON-COMMITTAL, INDICATED THAT WHILE FRG ACCEPTS DESIRABILITY OF WARSHIP EXCLUSION, ITS INTENTION HAS BEEN TO ACCOMPLISH THIS BY MEANS OF A REVIEW CONFERENCE AFTER CONVENTION ENTERS INTO FORCE. BRITISH HAVE SINCE HAD FOLLOW-ON CONVERSATIONS WITH FOREIGN MINISTRY IN BONN AND WITH FRG EMBASSY IN LONDON. WHILE NO FINAL FRG POSITION HAS YET EMERGED, FRG REPS INFORMED BRITISH THAT FRG BUREAUCRACY INTENDS TO SUBMIT DRAFT LEGISLATION COVERING RATIFICATION AND IMPLEMENTATION OF BRUSSELS CONVENTION TO CABINET IN APRIL. GERMAN OFFICIALS IN LONDON AND BONN STRESSED FRG DESIRE TO PROCEED EXPEDITIOUSLY TO BRING CONVENTION INTO FORCE IN NEXT FEW MONTHS IN ORDER TO INSURE COVERAGE OF NUCLEAR CONTAINER SHIP NOW BEING BUILT BY GERMAN-JAPANESE JOINT VENTURE AS WELL AS OTTO HAHN. THEY VOICED FEAR THAT NEGOTIATION OF PROTOCOL, STANDARD

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RESERVATION TEXT OR OTHER LEGAL DEVICE COULD TAKE 18 TO 24 MONTHS, AND EMPHASIZED FRG IS UNWILLING TO DELAY COMING INTO FORCE OF BRUSSELS CONVENTION THAT LONG. GERMANS SUGGESTED THAT NEXT STEP MIGHT BE TRILATERAL DISCUSSIONS AMONG EXPERTS IN LONDON.

4. IN ANOTHER EXCHANGE FIRST WEEK OF APRIL, GERMAN REPS INFORMED BRITISH THAT FRG STAFFERS (A) IN RESPONSE TO HMG

AND INDIRECT USG REQUEST WOULD LOOK INTO POSSIBILITY OF DELAYING GERMAN RATIFICATION OF BRUSSELS CONVENTION; (B) INTENDED TO PROCEED WITH SUBMISSION OF DRAFT IMPLEMENTING LEGISLATION TO CABINET BY END APRIL; AND (C) REITERATED FRG DETERMINATION TO ACT TO HAVE LEGAL FRAMEWORK FOR NUCLEAR POWERED MERCHANT SHIPS IN PLACE SUFFICIENTLY IN ADVANCE OF COMPLETION OF JOINT VENTURE CONTAINER SHIP TO INSURE THAT SHIP'S ENTRY INTO SERVICE WOULD NOT BE HELD UP BY UNRESOLVED LIABILITY OR OTHER LEGAL PROBLEMS.

5. ACTION REQUESTED: EMBASSY SHOULD INFORM APPROPRIATE FRG OFFICIALS (INCLUDING DELAS) THAT US, FOLLOWING INFORMAL DISCUSSION OF DESIRABILITY OF BRINGING 1962 BRUSSELS CONVENTION INTO FORCE WITH UK, HAS INITIATED INTENSIVE STUDY OF SEVERAL POSSIBLE MECHANISMS AND SCENARIOS BY WHICH THIS COULD BE DONE WITHOUT PREJUDICING US DEFENSE INTERESTS. US IS PREPARED TO WORK WITH FRG AS WELL AS WITH UK TO DEVISE METHOD OF ACTIVATING BRUSSELS CONVENTION IN MANNER WHICH BOTH PROTECTS US DEFENSE INTERESTS AND MEETS GERMAN REQUIREMENTS. YOU MAY INFORM FRG REPS THAT WE WOULD HOPE TO BE ABLE TO SHARE CONCLUSIONS OF OUR ON-GOING STUDY WITH UK AND FRG BY FIRST WEEK OF MAY. IN MEANTIME, WE WOULD HOPE THAT FRG WILL TAKE NO PRECIPITATE ACTION TOWARD RATIFICATION OF CONVENTION. KISSINGER

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